REMARKS

Applicants have cancelled claims 7-8 during prosecution of this patent application. Applicants are not conceding in this patent application that the subject matter encompassed by said cancelled claims are not patentable over the art cited by the Examiner, since the claim cancellations are only for facilitating expeditious prosecution of this patent application. Applicants respectfully reserve the right to pursue the subject matter encompassed by said cancelled claims, and to pursue other claims, in one or more continuations and/or divisional patent applications.

The Examiner rejected claims 1-3, 5-6 and 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over World Publication No. WO 96/13814 to Vazvan in view of U.S. Patent Application Publication No. 2003/0119478 to Nagy et al.

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as allegedly being unpatentable over World Publication No. WO 96/13814 to Vazvan and U.S. Patent Application Publication No. 2003/0119478 to Nagy et al. as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2003/0187795 to Lee et al.

Applicants respectfully traverse the § 103 rejections with the following arguments.

35 U.S.C. § 103(a): Claims 1-3, 5-6 and 8

The Examiner rejected claims 1-3, 5-6 and 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over World Publication No. WO 96/13814 to Vazvan in view of U.S. Patent Application Publication No. 2003/0119478 to Nagy et al.

Since claim 8 has been cancelled, the rejection of claim 8 under 35 U.S.C. § 103(a) is moot.

Applicants respectfully contend that claim 1 is not unpatentable over Vazvan in view of Nagy, because Vazvan in view of Nagy does not teach or suggest each and every feature of claim 1.

A first example of why claim 1 is not unpatentable over Vazvan in view of Nagy is that Vazvan in view of Nagy does not teach or suggest the feature: "reading at the transaction server the phone number of the wireless device communicated by the carrier transporting the SMS".

The Examiner argues: "Vazvan discloses ... Reading at the transaction sever the number of the phone number of the phone number of the wireless device communicated by the carrier transporting the SMS (page 5, lines 1-4; computing station can identify the calling party (payer) because it has received the calling party's identify from the wireless network)".

In response, Applicants agree with the Examiner that Vazvan, page 5, lines 1-4 discloses that the computing station can identify the calling party (payer) because it has received the calling party's identify from the wireless network. However, Vazvan, page 5, lines 1-4 does not disclose that the computing station receives the phone number of the wireless device communicated by the carrier transporting the SMS. Applicants note that Vazvan, page 3, lines 25-28 discloses that

the wireless network uses the phone number of the calling party's wireless device to identify the calling party, and the wireless network sends the calling party's identity to the transaction server (see Vazvan, page 3, lines 13-16). However, Vazvan does not anywhere disclose that the wireless network communicates the phone number of the wireless device to the transaction server.

Therefore, Vazvan does not disclose the preceding feature of claim 1.

A second example of why claim 1 is not unpatentable over Vazvan in view of Nagy is that Vazvan in view of Nagy does not teach or suggest the feature: "authentifying said phone number and retailer identification with the stored confidential user information"in combination with "a transaction server storing confidential user information including a retailer identification, a user code and a user wireless device phone number".

The Examiner argues: "Vazvan discloses ... authenticating the phone number and retailer identification with the stored user information (page 15, lines 1-10)".

In response, Applicants respectfully contend that the preceding feature of claim 1 requires authenticating the phone number by comparing the phone number with the user wireless device phone number stored in the transaction server, which Vazvan does not disclose. In addition, Vazvan does not disclose that the transaction server stores the user wireless device phone number. Therefore, there is no capability in Vazvan for comparing the phone number with the user wireless device phone number stored in the transaction server as required by the preceding feature of claim 1.

In further response, Applicants respectfully contend that the preceding feature of claim 1 requires authenticating retailer identification by comparing the retailer identification with the retailer identification stored in the transaction server, which Vazvan does not disclose. In addition, Vazvan does not disclose that the transaction server stores retailer identification. Therefore, there is no capability in Vazvan for comparing retailer identification with retailer identification stored in the transaction server as required by the preceding feature of claim 1.

Therefore, Vazvan does not disclose the preceding feature of claim 1.

A third example of why claim 1 is not unpatentable over Vazvan in view of Nagy is that Vazvan in view of Nagy does not teach or suggest the feature: "sending the user confidential information to the retailer POS" in combination with "a transaction server storing confidential user information including a retailer identification, a user code and a user wireless device phone number".

The Examiner argues: "Vazvan discloses ... sending the user confidential information to the retailer system (page 5, lines 24-25".

In response, Applicants respectfully contend that the preceding feature of claim 1 requires sending the user confidential information to the retailer system, wherein the user confidential information includes a retailer identification, a user code, and a user wireless device phone number, which Vazvan does not disclose. In addition, Vazvan does not disclose that the transaction server stores a retailer identification, a user code, and a user wireless device phone number. Therefore, there is no capability in Vazvan for sending to the retailer system the user

confidential information that includes a retailer identification, a user code, and a user wireless device phone number.

Therefore, Vazvan does not disclose the preceding feature of claim 1.

A fourth example of why claim 1 is not unpatentable over Vazvan in view of Nagy is that Vazvan in view of Nagy does not teach or suggest the feature: "the user entering on the POS the user code and the POS reading and authentifying the user code with the user confidential information received from the transaction server".

The Examiner argues that Nagy discloses the preceding feature of claim 1 and further argues: "Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method and computer program of Vazvan, to include POS and the user entering on the POS the user code and POS reading and authentifying the user code and executing the step if the user code is identified as belonging to the user confidential information as taught by Nagy in order to provide authenticate the subscriber to the financial network (Nagy, paragraph 35)."

In response, Applicants respectfully contend that the preceding reason offered by the Examiner for modifying Vazvan by the alleged teaching of Nagy is not persuasive. Applicants respectfully contend that Vazvan teaches away from being modified by the alleged teaching of Nagy and incorporation of the alleged teaching of Nagy into Vazvan would destroy the primary motivation for Vazvan's invention.

See Vazvan, page 2, lines 18-24 ("The most important advantage gained by the inventive system is that all mobile telephone subscribers can pay their bills by using only their normal

mobile telephones (in which the mobile payment part is included) and their subscriber identity or codes, without requiring any additional data modem, personal computer, and credit cards, etc. In this invention the subscriber identity and codes function as the credit card or bank card of the portable terminal's user.").

See Vazvan, page3, lines 13-33 ("As it is the object of this invention, the user's own account information dose not need to be entered into the mobile payment part if the computing station, based in the bank 3, can identify the calling party. This needs that the user information (identity) should be confirmed by his/her telephone operator or service provider in a wireless communications network 4 and then be sent to the bank as a confirmation of user (subscriber) identification. More precisely, user identity can be sent by user's telephone operator or service provider to the computing station 2 when portable terminal 1 set-ups a call or short message to the computing station 2.... Therefore, in this invention the computing station 2 receives at least the confirmed user identity from the user's telephone operator or service provider of a wireless communication network (WCN) 4 in order to identify who is in charge for payment of bills sent by portable terminal 1.... In today's mobile telecommunication systems the user identity, included in his/her SIM card, is checked out and confirmed by network 4 every time his/her portable terminal 1 is turned on and attached to the telephone network 4. ").

Thus, the preceding quotes from Vazvan demonstrate that incorporation of the alleged teaching of Nagy into Vazvan would either: (1) replace the role of the wireless communication network for identifying the calling party and thus destroy the primary intent of Vazvan's invention; or (2) add an additional method for identifying the calling party which Vazvan teaches away from and which would add unnecessary expense and complexity to Vazvan's invention.

Therefore, Vazvan does not disclose the preceding feature of claim 1.

Based on the preceding arguments, Applicants respectfully maintain that claim 1 is not unpatentable over Vazvan in view of Nagy, and that claim 1 is in condition for allowance. Since claims 2, 3, 5 and 6 depend from claim 1, Applicants contend that claims 2, 3, 5 and 6 are likewise in condition for allowance.

35 U.S.C. § 103(a):Claim 4

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as allegedly being unpatentable over World Publication No. WO 96/13814 to Vazvan and U.S. Patent Application Publication No. 2003/0119478 to Nagy et al. as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2003/0187795 to Lee et al.

Since claim 4 depend from claim 1, which Applicants have argued *supra* to not be unpatentable over Vazvan in view of Nagy under 35 U.S.C. §103(a), Applicants maintain that claim 4 is likewise not unpatentable over Vazvan in view of Nagy, and further in view of Lee under 35 U.S.C. §103(a).

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457 (IBM).

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